UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/438,437	11/12/1999	JEFFREY MARK ACHTERMANN	AT9-99-274	9316

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EXAMINER
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ART UNIT	PAPER NUMBER
2157	

DATE MAILED: 05/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>28 February 2003</u> .

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-22</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-22</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

        1. ☐ Certified copies of the priority documents have been received.

        2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
           application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5</u> .

4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: .

DETAILED ACTION

Response to Amendment

This Office Action is in response to Applicant's amendment filed on February 28, 2003. Claims

1-22 are presented for further examination.

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on
> sale in this country, more than one year prior to the date of application for patent in the United States.

2.   Claim **1, 5, 7, 9, 11, 12, 16, 18** and **19** are rejected under 35 U.S.C. 102(b) as being

anticipated by Bereiter.

As per claim **1**, Bereiter discloses a data processing system for bulk data transfer

comprising:

*   a source data processing system for distributing data to one or more target data

    processing systems (see Fig. 1, col. 2, lines 60-65, and col. 4, lines 17-21);

*   one or more fan-out nodes for transferring said data between said source system and

    each of said one or more target data processing systems and transferring result

    information between said one or more target data processing systems (see Fig. 1, and

    col. 6, lines 32-41) and a pre-selected set of one or more data processing systems for

    managing data distributions (col. 4, lines 6-21).

As per claim **5**, Bereiter discloses:

- wherein source data processing system distributes said data in response to a request

  from at least one said target data processing systems (col. 4, lines 32-41).

As per claims 9 and 16, Bereiter discloses:

- transferring said data via a first set of one or more fan-out nodes to one or more

  endpoints systems (col. 6, lines 32-41); and

- transferring results information via a second set of said one or more fan-out nodes from

  said one or more endpoints to a pre-selected set of one of more data processing systems

  for managing data distributions, said results information generated in response to said

  step of transferring said data (col. 4, lines 6-21, col. 6, lines 32-41, col. 8, lines 48-52).

As per claims 7, 12, and 19, Bereiter discloses:

- a list of target data processing systems to receive the data (col. 4, lines 32-36);

- an identifier of a method by which the target machines will receive and process data

  (col. 6, lines 55-63, col. 7, lines 32-38 and col. 8, lines 2-6); and

- an identifier of a notification method by which said result information from each

  endpoint system will receive by said pre-selected set of one of more data processing

  systems for managing data distributions (at least implicitly) (col. 8, lines 3-18).

As per claims 11 and 18, Breiter discloses:

- wherein the step of transferring said data is performed in response to a request received

  from an application on at least one said plurality of endpoints (col. 7, lines 30-38).

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

4.   Claims **2, 6, 10,** and **17** are rejected under 35 U.S.C. 103(a) as being unpatentable over

Bereiter in view of Fujino et al. (hereinafter, "Fujino", 6,085,222).

As per claims **2, 6, 10,** and **17**, although Bereiter shows substantial features of the claim

invention (discussed above), it fails to disclose:

- wherein each said of one or more fan-out nodes is operable for caching at least a portion

  of a data distribution and at least a portion of said result information.

However, the use and advantages for caching data is well known to one skilled in the

relevant art at the time the invention was made as evidenced by the teachings of Fujino (col. 6,

lines 4-11).

Therefore, one of ordinary skill in the art at the time the invention was made would have

found it obvious to modify Bereiter to a include a caching function within the managing node in

order to cache data and return results information improving the performance of the system.

5.   Claim **3, 14,** and **21** are rejected under 35 U.S.C. 103(a) as being unpatentable over

Bereiter in view of Nemirovsky et al. (hereinafter, "Nemirovsky", 6,477,562).

As per claim **3**, although Bereiter shows substantial features of the claimed invention (discussed above), it fails to explicitly disclose:

- wherein a data distribution has a pre-selected priority, said pre-selected priority operable for determining an availability of resources.

However, Nemirovsky discloses a multi-streaming processor for streaming one or more instruction threads comprising:

- wherein a data distribution has a pre-selected priority, said pre-selected priority operable for determining an availability of resources (at least implicitly) (col. 5, lines 61-67 and col. 6, lines 1-2).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to incorporate a priority record in Bereiter's system issuing priority to data in order to give priority to the resources.

As per claims **14** and **21**, although Bereiter show substantial features of the claimed invention (discussed above), it fails to explicitly disclose:

- determining an availability of a network connection for said transferring results information in response to said one said selected pre-selected set priority values.

However, Nemirovsky discloses a multi-streaming processor for streaming one or more instruction threads comprising:

- determining an availability of a network connection for said step of transferring said results information in response to said one of said pre-selected set of priority values (at least implicitly) (col. 5, lines col. 6, lines 2-16).

Therefore, one of ordinary skill in the art at the time the invention was made would have

found it obvious to incorporate the step of determining the availability of network connection for

transferring results information in response to said one of said pre-selected set of priority values

in Bereiter's system allowing the network to process responses in a timely and efficient manner.

6.   Claim **4** is rejected under 35 U.S.C. 103(a) as being unpatentable over Bereiter in view of

Minear et al. (hereinafter, "Minear", 5,983,350).

As per claim **4**, Bereiter discloses:

- receiving said data from said source data processing system by a first fan-out node (col.

  6, lines 32-41);

However, Bereiter fails to disclose:

- wherein said one of more fan-out nodes comprises a plurality of fan-out nodes, and

  wherein said transferring of said data comprises:

- sending said data to a second fan-out node; and

- sending said data from said second fan-out node to one or more said target data

  processing systems.

Minear discloses a system and method for regulating the flow of messages through a

firewall comprising:

- wherein said one of more fan-out nodes comprises a plurality of fan-out nodes (see

  Fig.1)

- sending said data to a second fan-out node (col. 1, lines 51-54); and

- sending said data from said second fan-out node to one or more said target data

  processing systems (col. 1, lines 54-56).

Therefore, one of ordinary skill in the art at the time the invention was made would have

found it obvious to incorporate a second gateway in Bereiter's system allowing data to be

quickly accessed by the end user or host.

7.   Claim **8** rejected under 35 U.S.C. 103(a) as being unpatentable over Bereiter in view of

Chang et al (hereinafter, "Chang", 5,367,643).

As per claim **8**, although Bereiter shows substantial features of the claimed invention

(discussed above), it fails to explicitly disclose:

- wherein said request is assigned a pre-selected distribution priority and said request is

  enqueued in accordance with said pre-selected distribution priority.

However, Chang discloses a generic adapter manager that organizes packets into queues

comprising:

- wherein said request is assigned a pre-selected distribution priority and said request is

  enqueued in accordance with said pre-selected distribution priority (col. 5, lines 10-25,

  lines 33-36, lines 58-64, and col. 19, lines 21-33).

Therefore, one of ordinary skill in the art at the time the invention was made would have

found it obvious to incorporate the step of managing data distributions enqueues in Bereiter's

system allowing requests to be removed in the same order they were entered.

8.   Claims **13**, **15**, **20**, and **22** are rejected under 35 U.S.C. 103(a) as being unpatentable over

Bereiter in view of Fujino and in further view of Nemirovsky.

As per claims **13** and **20**, although Bereiter in view of Fujino show substantial features of

the claimed invention (discussed above), it fails to explicitly disclose:

- assigning one of pre-selected set of priority values to each data distribution; and

- determining an availability of a network connection for said step of transferring said

  data in response to said one of said pre-selected set of priority values.

However, Nemirovsky discloses a multi-streaming processor for streaming one or more

instruction threads comprising:

- assigning one of pre-selected set of priority values to each data distribution (col. 5, lines

  61-63); and

- determining an availability of a network connection for said step of transferring said

  data in response to said one of said pre-selected set of priority values (at least implicitly)

  (col. 5, lines col. 6, lines 2-16).

Therefore, one of ordinary skill in the art at the time the invention was made would have

found it obvious to incorporate the steps assigning one pre-selected set of priority values to each

data distribution and determining the availability of network connection to transfer data in

response to set of priority values in Bereiter's system allowing data to be process in a timely and

efficient manner according to their priority value.

As per claims **15** and **22**, although Bereiter in view of Fujino show substantial features of

the claimed invention (discussed above), it fails to explicitly disclose:

- assigning a distribution lifetime value to each data distribution; and

- aborting said step of transferring said data in response to an unavailability of said

  connection for a time interval corresponding to said distribution lifetime.

However, Nemirovsky discloses a multi-streaming processor for streaming one or more

instruction threads comprising:

- assigning a distribution lifetime value to each data distribution (at least implicitly) (col.

  7, lines 17-25); and

- aborting said step of transferring said data in response to an unavailability of said

  connection for a time interval corresponding to said distribution lifetime (at least

  implicitly) (col. 5, lines col. 6, lines 2-16).

Therefore, one of ordinary skill in the art at the time the invention was made would have

found it obvious to incorporate the steps assigning a distribution lifetime value to the data and

aborting the transfer of data in Bereiter's system allowing data to be deleted when time period

has expired.

Response to Arguments

9.   Applicant's arguments filed February 28, 2003 have been fully considered but they are

not persuasive.

In request for reconsideration filed on February 28, 2003, the following factual arguments

are noted:

a.   Regarding claim 1, the teachings in Bereiter by their express terms do not disclose a

source data processing system for distributing data to one or more target data processing

systems.

b.   Bereiter expressly discloses that each endpoint machines includes a client component, which is a low cost low maintenance application that is dataless in the sense that the system management data is not cached or stored in a persistent manner on the client.

c.   Regarding claim 5, the teachings in Bereiter by their express terms do disclose a source data processing system distributing data in response to a request from at least one target data processing system.

d.   Regarding claims 9 and 16, the teachings in Bereiter by their express terms does disclose transferring data, and transferring results information via the second set of the one or more fan-out nodes in response to the step of transferring the data.

In considering (a), (c)-(d), Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

In considering (b), Examiner disagrees with Applicant's argument. The method of caching is well known in the art and would have been an obvious modification to Bereiter to include a caching function to cache the data within the endpoints.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaShonda T. Jacobs whose telephone number is 703-305-7494. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 703-308-7562. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

LaShonda T. Jacobs
Examiner
Art Unit 2157

ltj
May 5, 2003

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